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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

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IN THE MATTER OF:

Sells Printing Company LLC
New Berlin, Wisconsin

Respondent.

)
)
) Docket No. **CAA-5-99-028**
) Proceeding to Assess
) Administrative Penalty
) under Section 113(d) of the
) Clean Air Act,
) 42 U.S.C. §7413(d)
)
)
)

ADMINISTRATIVE COMPLAINT AND
NOTICE OF PROPOSED ORDER ASSESSING A PENALTY

This civil administrative action is instituted pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("U.S. EPA") by Section 113(d) of the Clean Air Act ("Act"), 42 U.S.C. § 7413(d), and pursuant to the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division of U.S. EPA, Region 5, who hereby issues this Complaint. Respondent is Sells Printing Company LLC (Sells).

STATUTORY AND REGULATORY BACKGROUND

1. On June 11, 1996, U.S. EPA approved NR 422.142 Lithographic Printing as part of the federally enforceable SIP for the State of Wisconsin 61 FR 15706; 61 FR 15744.

2. NR 422.142(2)(c)(1) requires any person who owns or operates a heatset web lithographic printing press to use blanket or roller wash which, as applied, has a VOC content of no greater than 30 percent (%) by weight or a

vapor pressure for each VOC component of less than or equal to 10 mm of Hg at 20°C.

3. NR 422.142(4)(a)(1) requires that the owner or operator of any lithographic printing press shall collect and record control device monitoring data for each day of operation of a heatset web lithographic printing press using a control device.

4. NR 422.142(4)(a)(2) requires that the owner or operator of any lithographic printing press shall collect and record a log of operating time for the control device, monitoring equipment and the associated printing line or operation, for a heatset web lithographic printing press using a control device.

5. NR 422.142(6)(a) requires that the owner or operator of any lithographic printing press installed on or before July 1, 1996, shall achieve compliance with the applicable emission limitations of sub. (2) of NR 422.142 by July 1, 1996.

6. NR 422.142(6)(b)(1) requires that the owner or operator of any lithographic printing press installed on or before July 1, 1996 shall submit to the department no later than September 1, 1996, written certification that the press is in compliance with the applicable requirements of subs. (2) and (3) and shall provide a demonstration of compliance in accordance with subs. (4) and (5). A compliance emission test performed in accordance with

§ NR 439.07 no more than 2 years prior to the compliance deadline, which demonstrates compliance with sub. (2)(a), is acceptable as a demonstration of compliance in accordance with sub. (5).

7. Section 113(a) of the Act provides the Administrator of the U.S. EPA ("Administrator") with the authority to issue compliance and penalty orders against any person that has violated or is in violation of an applicable Implementation Plan or permit. That authority has been delegated to the Director, Air and Radiation Division, Region 5, U.S. EPA ("Director").

8. Section 113(d)(1) of the Act, 42 U.S.C. §7413(d)(1), and U.S. EPA's Civil Monetary Penalty Inflation Rule, 40 C.F.R. Part 19, provide that the Administrator may issue an administrative order assessing a civil penalty of up to \$27,500 per day of violation, whenever the Administrator finds that a person has violated or is violating any requirement or prohibition of an applicable implementation plan.

GENERAL ALLEGATIONS

9. Complainant is the Director of the Air and Radiation Division who hereby issues this Administrative Complaint and Notice of Proposed Order Assessing a Penalty ("Complaint").

10. Respondent is Sells Printing Company LLC ("Sells").

11. Respondent owns and operates a lithographic press located at 16000 W. Rogers Drive, New Berlin, Wisconsin 53151.

12. Respondent's lithographic press has, among other sources, three heatset web presses (M-80, M-90 and M-300), one sheet-fed press (Miller TP104), a blanket and/or roller wash operation, and a catalytic oxidizer (Quantum 7000).

13. Respondent is a "person" as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

14. Respondent's lithographic press at New Berlin, Wisconsin is a "stationary source" as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

15. Respondent is an "owner and/or operator" as defined at Section 111(a)(5) of the Act, 42 U.S.C. § 7411(a)(5).

16. Respondent's lithographic press production processes emit volatile organic compound (VOC) emissions into the atmosphere.

17. On March 26, 1999, U.S. EPA issued a Notice of Violation ("NOV") to the Respondent for violations of NR 422.142 at its lithographic press production processes in New Berlin, Wisconsin.

18. On May 14, 1999, representatives of U.S. EPA met with Respondent to discuss the NOV. In this meeting Respondent was informed that U.S. EPA may seek civil penalties for the violations of the Act referred to in the NOV.

SPECIFIC ALLEGATIONS

COUNT I

19. Paragraphs 1 through 18 are realleged and incorporated herein by reference.

20. On December 16, 1998, U.S. EPA received Sells' Information request response. The table below identifies certain blanket and/or rollerwashes in use by Sells. Use of these blanket and/or rollerwashes are violations of NR 422.142(2) (c) (1).

<u>Product</u>	<u>% by weight VOC</u>	<u>Vapor Pressure</u> <u>mm Hg @20°C</u>
Kelstar Metering Roller Cleaner	100	60.0
MilSolv Ambassador Blanket Wash	100	13.0

COUNT II

21. Paragraphs 1 through 20 are realleged and incorporated herein by reference.

22. Based on an inspection conducted at the facility on October 6, 1998, and through an information request issued by U.S. EPA on November 10, 1998, Sells has failed to collect, record and maintain records of control device monitoring data. By failing to collect, record and maintain the required data, Sells is in violation of NR 422.142(4) (a) (1).

COUNT III

23. Paragraphs 1 through 22 are realleged and incorporated herein by reference.

24. Based on an inspection conducted at the facility on October 6, 1998, and through an information request issued by U.S. EPA on November 10, 1998, Sells failed to collect, record and maintain records of a log of operating time for the control device, monitoring equipment and for the associated printing line. Sells' failure to collect, record and maintain the required information is in violation of NR 422.142(4)(a)(2).

COUNT IV

25. Paragraphs 1 through 24 are realleged and incorporated herein by reference.

26. Based on an inspection conducted at the facility on October 6, 1998 Sells did not achieve compliance with the applicable emission limitations by July 1, 1996. This is a violation of NR 422.142(6)(a).

COUNT V

27. Paragraphs 1 through 26 are realleged and incorporated herein by reference.

28. Based on an inspection conducted at the facility on October 6, 1998, Sells did not submit to the department a written certification that the presses were in compliance with the applicable requirements of subs. (2) and (3) of NR 422.142 or a demonstration of compliance with subs. (4) and (5) of NR 422.142. This is a violation of NR 422.142(6)(b)(1).

NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY

29. Pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), the Administrator may assess a civil penalty not to exceed \$27,500 per day of violation, to a maximum administrative civil penalty of \$220,000 for, among other things, violations of any requirements or prohibitions of an applicable implementation plan or permit.

30. Section 113(e)(1) of the Act, 42 U.S.C. § 7413(e)(1), authorizes the assessment of a civil penalty based upon the seriousness and duration of the violation alleged, and after consideration of the size of the business, the economic impact of the penalty on the business, the Respondent's full compliance history, good faith efforts to comply, payment by the violator of penalties assessed for the same violation, the economic benefit of noncompliance, and other factors as justice may require.

31. Based upon the facts alleged in this Complaint, and after considering the factors set forth in the preceding paragraph, U.S. EPA hereby proposes to issue a Final Order assessing administrative penalties to Respondent in the amount of **\$67,916** for the violations alleged in the Complaint.

32. Based on the best information available to U.S. EPA at this time, the proposed penalty reflects a presumption of Respondent's ability to pay the penalty and to continue in business.

33. Respondent shall pay the assessed penalty by certified or cashiers' check payable to "Treasurer, the United States of America," and shall deliver

it, with a transmittal letter identifying the name of the case and docket number of this Complaint to:

U.S. Environmental Protection Agency, Region 5
P.O. Box 70753
Chicago, Illinois 60604-3590

34. Respondent shall also include on the check the name of the case and the docket number. Respondent shall simultaneously send copies of the check and transmittal letter to:

Sherry Finley
Air and Radiation Division
U.S. EPA, Region 5
77 West Jackson Boulevard (AE-17J)
Chicago, Illinois 60604-3590

and

Roger Grimes
Associate Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard (C-14J)
Chicago, Illinois 60604-3590

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

35. As provided in Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2), Respondent has the right to request a hearing to contest any material fact contained in the Complaint and/or to contest the appropriateness of the amount of the proposed penalty. In order to request a hearing, you must specifically make such request in the Answer, as discussed below.

36. Any hearing which you may request regarding the Complaint will be held and conducted in accordance with the provisions of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the

Revocation or Suspension of Permits," 40 C.F.R. Part 22, a copy of which accompanies this Complaint.

ANSWER

37. If Respondent wishes to avoid being found in default, Respondent must file a written Answer to this Complaint with the Regional Hearing Clerk, (E-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, within 30 calendar days of receipt of this Complaint. In computing any period of time allowed under this Complaint, the day of the event from which the designated period begins to run shall not be included. Saturdays, Sundays, and Federal holidays shall be included, except when a deadline occurs on such a day, in which case the deadline shall be extended to the next business day.

38. The Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint with respect to which Respondent has any knowledge, or clearly state that Respondent has no knowledge regarding the particular factual allegations in the Complaint. The Answer shall also state:

- A. The circumstances or arguments that are alleged to constitute grounds for defense;
- B. The facts that you intend to place at issue; and
- C. Whether you request a hearing.

39. Failure to deny any factual allegations in this Complaint shall constitute admission of the undenied allegations.

40. A copy of your Answer and any documents subsequently filed in this action should be sent to Roger Grimes, Associate Regional Counsel

(C-14J), U.S. EPA, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

You may telephone Mr. Grimes at (312) 886-6595.

41. If you fail to file a written Answer within thirty (30) calendar days of your receipt of this Complaint, the Administrator of U.S. EPA may issue a Default Order. Issuance of a Default Order constitutes a binding admission of all allegations made in the Complaint and a waiver of your right to a hearing. 40 C.F.R. § 22.17. The Civil Penalty proposed herein shall become due and payable without further proceedings sixty (60) days after the Default Order becomes the Final Order of the Administrator pursuant to 40 C.F.R. § 22.27 or 40 C.F.R. § 22.31.

SETTLEMENT CONFERENCE

42. Whether or not you request a hearing, you may request an informal conference to discuss the facts of this action and attempt to reach a settlement. To request a settlement conference, write to Peter B. Spyropoulos, Air and Radiation Division, Air Enforcement and Compliance Assurance Branch (AE-17J), 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, or telephone him at (312) 886-6073.


43. Your request for an informal settlement conference does not extend the thirty (30) day period during which you must submit a written Answer to this Complaint. You may simultaneously pursue the informal settlement conference and adjudicatory hearing processes. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. However,

U.S. EPA will not reduce the penalty simply because such a conference is held. Any settlement that may be reached as a result of such conference shall be embodied in a Consent Agreement and Order. Your agreement to a Consent Agreement and Order assessing administrative penalties shall constitute a waiver of your right to a hearing on any matter stipulated to therein.

CONTINUING OBLIGATION TO COMPLY

44. Neither assessment nor payment of an administrative civil penalty shall affect your continuing obligation to comply with the Clean Air Act, or with any other Federal, State or local law or regulation.

8/19/99
Date


Margaret M. Guerrero,
Acting Director
U.S. Environmental Protection
Agency, Region 5 (A-18J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CAA-5-99-028

CAA-5-RE-028
CERTIFICATE OF SERVICE

I certify that on this 20th day of August 1999, I filed the original Clean Air Act Administrative Complaint issued to the Sells Printing Company LLC, with:

Regional Hearing Clerk
77 W. Jackson Blvd.
Chicago, Illinois 60604

U.S.
PROSECUTOR
REGION 5

and, deposited in the U.S. Mail, certified mail, return receipt requested, a copy of the Clean Air Act Administrative Complaint, a copy of the Clean Air Act Stationary Source Civil Penalty Policy and the Part 22 Rules of Practice addressed to the following Respondent:

Donald L. Schroeder, President
Sells Printing Company LLC
16000 W. Rogers Drive
New Berlin, Wisconsin 53151

Certified Mail Number:

P 140 779 169

and, mailed a copy of the Clean Air Act Administrative Complaint issued to Sells, to:

Lakshmi Sridharan, Regional Leader
Wisconsin Department of Natural Resources
Southeast Region
P.O. Box 12436
Milwaukee, Wisconsin 53212

Date

8/20/99

Betty Williams for Shanee Rucker
Shanee Rucker, Secretary
U.S. EPA, Region 5